

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 06-55 (DSD/SRN)

United States of America,

Plaintiff,

v.

**ORDER**

Aaron Einhardt James,

Defendant.

This matter is before the court upon defendant's motion for a new trial. Based upon a review of the file, record, and proceedings herein, and for the reasons stated, the court denies defendant's motion.

**BACKGROUND**

Defendant Aaron Einhardt James was indicted by a grand jury on two counts of assault against an airport police officer within the special aircraft jurisdiction of the United States. See 18 U.S.C. § 113; 49 U.S.C. §§ 46501(2), 46506(1). The superseding indictment charged defendant in count one of assault resulting in serious bodily injury, in violation of 18 U.S.C. § 113(a)(6), and in count two of assault by striking, beating or wounding in violation of 18 U.S.C. § 113(a)(4). Following trial, the jury found defendant not guilty on count one and guilty on count two. Defendant now moves for a new trial pursuant to Federal Rule of Criminal Procedure

33(a) based upon inconsistent testimony of the witnesses and insufficiency of the evidence.

### **DISCUSSION**

On a motion for a new trial, the court will set aside a jury's verdict only if the evidence weighs so heavily to the contrary that a miscarriage of justice may have occurred. See United States v. Ruiz, 446 F.3d 762, 768 (8th Cir. 2006). In making this determination, the court weighs the evidence and, in doing so, evaluates the credibility of the witnesses. Id.

Defendant argues that the evidence was insufficient to establish he intentionally assaulted Officer Sean Hoerdts and that the government did not prove, beyond a reasonable doubt, that defendant was not acting in self defense. In support of his motion, defendant contends only that the government witnesses did not testify consistently and points to witnesses being unable to recall how many officers boarded the aircraft. Following a review of the evidence the government submitted at trial and an evaluation of the credibility of the government's witnesses, the court finds that the evidence at trial well supported the jury's verdict as to count 2. Because the court finds the jury's verdict to be supported by substantial and competent evidence, no miscarriage of justice has occurred. Therefore, defendant's motion for new trial is denied.

**CONCLUSION**

Accordingly, **IT IS HEREBY ORDERED** that defendant's motion for a new trial [Docket No. 44] is denied.

Dated: July 6, 2006

s/David S. Doty  
David S. Doty, Judge  
United States District Court